

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO. 5:12-CV-00026-RLV-DSC**

ELLEN POPE,)
)
Plaintiff,)
)
v.)
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)
_____)

MEMORANDUM AND ORDER

THIS MATTER is before the Court on the parties' cross-motions for summary judgment. (Docs. 11, 15.)

Pursuant to 28 U.S.C. § 636(b)(1)(B), United States Magistrate Judge David S. Cayer was designated to consider and recommend disposition of the aforesaid motions. In a Memorandum and Recommendation Opinion ("M & R"), filed November 16, 2012, the Magistrate Judge recommended that Plaintiff's Motion for Summary Judgment be granted, that Defendant's Motion for Summary Judgment be denied, that the Commissioner's decision be reversed, and that the matter be remanded for further proceedings. (Doc. 17.) Defendant has since filed with the Court notice that it does not object to the M & R. (Doc. 18.)

After a careful review of the M & R, the Court finds that the Magistrate Judge's findings of fact are supported by the record and that his conclusions of law are consistent with and well supported by current case law. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315–16 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee's note) ("[I]n the absence

of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (suggesting that only a careful review is required in considering a memorandum and recommendation absent specific objections). Accordingly, the Court hereby accepts the M & R of the Magistrate Judge and adopts it as the final decision of this Court for all purposes relating to this case.

IT IS, THEREFORE, ORDERED that Plaintiff’s Motion for Summary Judgment (Doc. 11) be **GRANTED**; that Defendant’s Motion for Summary Judgment (Doc. 15) be **DENIED**; that the Commissioner’s denial of benefits be **REVERSED**; and that the matter be **REMANDED** for a new hearing pursuant to sentence four of 42 U.S.C. § 405(g).

Signed: December 6, 2012

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is fluid and cursive, with the first name "Richard" and last name "Voorhees" clearly legible.

Richard L. Voorhees
United States District Judge

